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May 3, 1999

BY HAND

Magalie Roman Salas  
Office of the Secretary  
Federal Communications Commission  
445 Twelfth Street, S.W., TWA-325  
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Re: In the Matter of Policies and Rules Concerning Unauthorized Changes of  
Consumers Long Distance Carriers: CC Docket No. 94-129.  
Comments of Tel-Save.com, Inc.

Dear Ms. Salas:

Please find enclosed for filing the original and four copies of the Reply Comments of TALK.com Inc. (formerly Tel-Save.com, Inc.) in the above-referenced rulemaking proceeding. A copy of these Reply Comments has been provided on diskette to the Common Carrier Bureau and International Transcription Service, Inc.

Sincerely,

  
Nicholas I. Porritt

Enclosures

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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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In the Matter of )

Implementation of the Subscriber Carrier )  
Selection Changes Provisions of the )  
Telecommunications Act of 1996 )

Policies and Rules Concerning )  
Unauthorized Changes of Consumers )  
Long Distance Carriers )  
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OFFICE OF THE SECRETARY**

CC Docket No. 94-129

**REPLY COMMENTS OF TALK.COM INC.**  
**(FORMERLY TEL-SAVE.COM, INC.)**

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Dated: May 3, 1999

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## **SUMMARY**

The Commission and the majority of commentators agree that the Internet offers a convenient and efficient means for consumers to exercise an informed choice between providers of long distance telephone service. Further, many commentators agree with TALK.com that the sale of telephone service on-line offers consumers more protection, and is less susceptible to fraud, than existing sales methods involving telephone or written solicitations.

The Commission should welcome and encourage the use of the Internet to market and sell telephone services by expressly recognizing that a letter of agency, completed and submitted on-line, can fully comply with existing Commission verification rules, and does not require use of additional, duplicative and less reliable verification methods, such as a letter of agency printed on paper or a third party verification telephone call. Additional verification requirements are overly restrictive and unnecessary and could severely limit the ability of consumers to purchase telephone service on-line, thus undermining the substantial cost savings and consumer benefits that result from on-line sales.

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**REPLY COMMENTS OF TALK.COM INC.**  
**(FORMERLY TEL-SAVE.COM, INC.)**

TALK.com Inc. (formerly Tel-Save.com, Inc.) ("TALK") files these reply comments in response to the Commission's Second Further Notice Of Proposed Rulemaking ("FNPRM")<sup>1</sup> regarding preferred carrier changes, 47 C.F.R. § 64.1100 et seq., and the initial comments to the FNPRM filed in this proceeding. TALK is a major provider of long distance telephone service through e-commerce and its reply comments focus in particular on the proposed treatment of preferred carrier changes conducted on-line and over the Internet.

\_\_\_\_\_  
<sup>1</sup> In the Matter of the Implementation of the Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996, CC 94-129, Second Report and Order and Further Notice of Proposed Rulemaking (rel. Dec. 23, 1998).

**I. ON-LINE SALES ARE EFFICIENT AND CONVENIENT AND PROVIDE MORE PROTECTION FOR CONSUMERS THAN TRADITIONAL SALES METHODS**

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In the FNPRM, the Commission recognized that the Internet offers a “quick and efficient method” for the sale of long-distance telephone service “which should be made widely available.” FNPRM at ¶ 169. The majority of the commentators, as well as TALK, agree with the Commission. See, e.g., Comments of Cable & Wireless USA, Inc., MCI Worldcom, Inc., Missouri Public Service Commission, and US West Communications, Inc.

In addition to being an efficient method for customers to learn about service offerings, select a carrier and sign up for long distance service, the Internet provides more protection to consumers than other sign-up methods such as a paper letter of agency (“LOA”) or telemarketing. Unlike other methods, on-line sign-up is initiated by the consumer rather than the carrier. Using the Internet, a consumer can obtain detailed information about a carrier’s service as well as the services offered by competing carriers and an informed comparison of the competing services can be made. Only once this information has been absorbed, which can take as long as the consumer wants, does a consumer decide to switch service, and only then is the sign-up process commenced. On-line sign-up thus offers consumers the ability to make a more deliberate and methodical choice of long distance telephone service, based on greater information, than traditional sign-up methods.

On-line sign-up and verification also typically requires the consumer to provide personal information, such as the subscriber’s name, address and telephone number, as well as a method for payment, such as a credit or debit card. The consumer is able to

check the accuracy of this information before the authorization is submitted. This means an authorization and verification submitted on-line is more likely to contain correct information than information submitted by telephone or contained in an LOA form printed by a carrier and simply signed by the consumer on a street corner or shopping mall.

## **II. THE INTERNET IS NOT, AND IS UNLIKELY TO BECOME, A FERTILE GROUND FOR SLAMMING**

The majority of commentators agree that they are unaware of any information indicating that Internet-based slamming is widespread or causing significant problems. See, e.g., Comments of Sprint Corporation at 9. Despite the Commission's concern that the Internet could become a "fertile ground" for slamming, FNPRM at ¶ 169, such concern would appear to be unfounded.

The new liability rules proposed by the Commission have eliminated any incentives to engage in slamming. Further, the introduction of a third party administrator, as has been proposed in this proceeding, will ensure that these liability rules operate effectively and efficiently so that any slamming problem that may arise in the future will be swiftly corrected.

Carriers already have particularly strong incentives to ensure that authorizations submitted on-line are proper and accurate not only to avoid any involvement in a slamming dispute, but also to ensure that a reliable means of being paid for services they provide will be in place. TALK, for instance, insists on receiving a credit or debit card number in addition to the subscriber's other personal information, and TALK then validates the credit card before the transaction is completed. If any of the credit card

details necessary to validate the credit card are incorrect, TALK will not accept the carrier change submitted by the customer. TALK also confirms all carrier changes submitted on-line by two e-mails back to the consumer, one message when the carrier change is submitted to the local exchange carrier and another when the change has been executed.

Specific concerns raised by the Commission, and some other commentators, are similarly unfounded. Because of the requirement to review several screens of information about the service and provide significant amounts of personal information when signing up on-line, the risks of a consumer inadvertently changing carriers on-line are negligible. There is certainly less risk of an inadvertent switch occurring on-line than through a confused telephone call or mistakenly signing a paper LOA at a shopping mall or on a street corner.

Similarly, while it may be hypothetically possible for an unauthorized household member to change carriers on-line, the risk of this occurring is less than through a telephone call or a pre-printed written LOA mailed to the household. An electronic LOA must fully comply with the Commission's requirements regarding the form of LOAs so that it is separate from any solicitation materials and its sole purpose is to evidence a change in carrier. As an added protection, electronic LOAs also include a statement that the person executing the LOA is authorized to make the change in carrier. That is the same question asked during a verification telephone call or on a paper LOA and the answer is equally reliable. Beyond these protections, consumers effecting a carrier change on-line must themselves provide relevant personal information, and, even more tellingly, a credit or debit card number and expiration date. The household member who



has this information is able to spend thousands of dollars, ordering everything from computers to medicines to flowers on-line. The purchase of telephone service is small by comparison. But the requirement for a credit or debit card and expiration date provides additional security and makes an unauthorized change by an unauthorized household member less likely on-line than through more traditional sign-up and verification methods. The requirement for verifiable personal information, including credit or debit card information, also makes it unlikely that any hacker could change a person's carrier without their knowledge.

On-line sign-ups effected through a Closed User Group ("CUG"), such as America Online or the Microsoft Network, offer even greater protection. The ability to change carrier through a carrier's site on a CUG requires access to the subscriber's CUG account, which in turn requires knowledge of the CUG user's account name and password, as well as the relevant personal information of the telephone subscriber.

### **III. REQUIRING ADDITIONAL UNIQUE AND NON-PUBLIC PERSONAL IDENTIFIERS IS BOTH UNNECESSARY AND IMPRACTICABLE**

Some commentators, such as the New York State Consumer Protection Board, suggest that a carrier change submitted on-line must be verified by additional, possibly up to five, unique personal identifiers which should not include a credit or debit card number or social security number and which are not available from public information. This information, they contend, must be confirmed as accurate by the carrier to "a reasonable degree of accuracy." See Comments of NYSCPD at 16-19. Such a requirement is unnecessary and would effectively prohibit on-line sign-up.

The information currently required for an electronic LOA - the person's full name, address, telephone number and, typically, a credit or debit card - is legally sufficient to purchase numerous other consumer products, including such expensive items as personal computers and automobiles. There is no reason for the Commission to determine that the only product for which this information is insufficient is telephone services.

Further, the provision of additional unique personal information is beneficial only if carriers have some ability to confirm that it is correct before the carrier change is submitted to the local exchange carrier. Checking unique personal information would require every carrier using on-line sign-up to maintain a database containing personal information of every telephone subscriber in the United States. The costs of creating such a database would be immense. In addition, if the unique personal information is to be based on non-public information, it would be impossible for a carrier to create such a database as it would be legally prohibited from obtaining the information. This requirement would make on-line sign-up impossible.

### **CONCLUSION**

The Internet and other on-line services offer the potential for tremendous efficiencies in the marketing, sale and provision of telecommunications services. These efficiencies already have led to increased competition and lower costs to consumers. The use of this technology is still in its infancy, however, and the Commission should not retard its growth by imposing unnecessary and impracticable restrictions on on-line sign-up for long distance service. Electronic LOAs, together with the other consumer protections provided by sign-ups over the Internet and through CUGs, offer consumers

greater protection against unauthorized changes in service and should be accepted as complying with the Commission's existing rules. No additional verification, by pen and ink LOA or telephone verification, should be required.

Respectfully submitted,

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